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10/521,379	10/12/2005	Frank Hundscheidt	P16406US1	1983
27045	7590	11/10/2010		
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024			EXAMINER DENNISON, JERRY B	
			ART UNIT	PAPER NUMBER
			2443	
			NOTIFICATION DATE	DELIVERY MODE
			11/10/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/521,379

Applicant(s)

HUNDSCHIEDT ET AL.

Examiner

J Bret Dennison

Art Unit

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-10, 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-10, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Action is in response to the Reconsideration for Application Number 10/521,379 received on 8/25/2010.
2. Claims 1-2, 4-10, and 13-14 are presented for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-2, 4-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation, "receiving a control instruction from a selected network component." It is unclear to Examiner if the recited "a selected network component" is referring to the network component selected in the preceding limitation. If this is the case, it is recommended that the limitation be amended to "the selected network component."

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim(s) 13-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 13 recites "a floor controller, the floor controller being a network component". Applicant's Specification does not provide an explicit definition of a network component. Therefore, this component, in its broadest reasonable interpretation, may be interpreted simply as a software component. As such, claim 13 includes an embodiment entirely made up of software (i.e. computer program). Claim 14 recites that the floor controller may be co-located with the data source, which may be interpreted as the floor controller is software at the data source. As such, claim 14 includes an embodiment entirely made up of software (i.e. computer program).

Computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs are not physical "things". They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

M.P.E.P. 2601.1 Section I states, "Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and USPTO personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material."

Claims 13-14 do not provide the computer-readable medium needed to realize the program's functionality and as such are not limited to statutory subject matter and are therefore non-statutory.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4-6, 10, 13-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Karpoff (US 7299290).

1. Regarding claim 1, Karpoff disclosed a method of controlling a floor controller, the floor controller being a network component belonging to a group of network components in a communications network, the group of network components configured to receive a data stream from a data source, the method comprising the steps of:

the floor controller selecting from the group of network components, a network component for controlling the data source (Karpoff, col. 17, lines 20-25, Karpoff disclosed authenticating the client, upon successful authentication, allowing the client to requests data streams);

receiving a control instruction from a selected network component of the group of network components, the control instruction relating to a control of the data source

(Karpoff, col. 15, lines 42-45, col. 17, lines 55-57, Karpoff disclosed the client requesting via HTTP); and

in response to receipt of the control instruction from the one of the group of network components, the floor controller triggering translation transformation of the control instruction into an appropriate session control command and forwarding the session control command to the data source (Karpoff, col. 17, lines 25-45, Karpoff disclosed in response to client requests, the server provides control messages in different format to the data source in order to not violate security; col. 18, lines 44-47, Karpoff disclosed using an RPC request; col. 15, lines 60-67, Karpoff disclosed the back end communication between server and controller using SDR).

Claim 13 includes a floor controller with limitations that are substantially similar to claim 1, and is therefore rejected under the same rationale.

2. Regarding claim 2, Karpoff disclosed the limitations as described in claim 1, including wherein the step of receiving a control instruction includes controlling the data stream (Karpoff, col. 15, lines 60-67).

3. Regarding claim 4, Karpoff disclosed the limitations as described in claim 1, including the step of the floor controller initiating a streaming, gaming or gambling session as part of the data stream (Karpoff, col. 15, lines 60-67).

4. Regarding claim 5, Karpoff disclosed the limitations as described in claim 1, including the floor controller conferring direct access to the data source and floor control, temporarily to one of the group of network components (Karpoff, col. 17, lines 20-25, col. 18, lines 32-40)
5. Regarding claim 6, Karpoff disclosed the limitations as described in claim 1, including the step of the floor controller passing control of the data source by instructing one of the network components to take over session control upon receipt of a request for session control from one of the network components (Karpoff, col. 17, lines 20-26, Karpoff disclosed upon client authentication, the server allowing the client to have control by requesting data streams).
6. Regarding claim 10, Karpoff disclosed the limitations as described in claim 1, including performing one of an authentication and authorization relating to one of the network components and control instructions (Karpoff, col. 17, lines 20-25).
7. Regarding claim 14, Karpoff disclosed the limitations as described in claim 13, including wherein the floor controller is a mobile or stationary terminal and is configured as a proxy component or is co-located with the data source (Fig. 15, 112, 150).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karpoff (US 7299290) in view of Maggenti et al. (US 2002/0086665).

8. Regarding claims 7-9, Karpoff disclosed the limitations as described in claim 1. Karpoff did not explicitly state establishing a session control channel for receiving control instructions only between the floor controller and the selected network component of the group of network components, or establishing session control channels for receiving control instructions between the floor controller and two or more network components of the group of network components, or establishing a floor control channel between the floor controller and one of the network components.

In an analogous art, Maggenti disclosed using separate channels between client devices and floor controller for control instructions including floor control ([0052]-[0053]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the channel usage as disclosed by Maggenti within the teachings of Karpoff in order to simplify the task of interpreting message types.

Response to Amendment

Applicant's arguments and amendments filed on 8/25/2010 have been carefully considered but they are not deemed fully persuasive.

In regards to Applicant's arguments against the 112 2nd rejection, Examiner points out the rejection was not regarding the definition of a component, but rather whether the claimed "a selected network component" (2nd limitation) is referring to the network component selected in the preceding limitation (1st limitation). If this is the case, the limitation should be amended to "the selected network component" thereby providing proper antecedent basis.

To help clarify the issue, Applicant is directed towards claim 13, to which the second limitation clearly refers to "the one of the group of network components", which references to the claimed "one of the group" in the preceding limitation.

In regards to Applicant arguments against the 101 Rejections, Examiner respectfully disagrees for the following reasons.

1. One of ordinary skill in the art would recognize a network component to not necessarily be a piece of hardware. The term is broad enough to cover software components.
2. While Applicant's specification may provide examples of network components, this is not an explicit definition of what the components must be. As such, the broadest reasonable interpretation of a component includes a software component.

3. The "floor controller" is defined by the limitations of the claim, to only include "units" and "interfaces" which are well known to include software embodiments.

As such, the claim covers software embodiments and is thus non-statutory. Therefore the rejection is respectfully maintained.

In order to overcome this rejection, it is suggested by Examiner to amend the claim in a way to positively recite that the floor controller comprises some kind of hardware, such as a memory. If Applicant intends the floor controller to be hardware, then the simple inclusion of a piece of hardware would not effect Applicant's intended scope of the claim.

In response to Applicant's arguments against the Karpoff reference, Examiner respectfully disagrees.

As shown in the rejection, the teachings of Karpoff may be implemented within an authorization setting in which only devices that are properly authenticated are selected to be allowed to control the data source. In the case of Karpoff, the server authenticates certain clients in order to allow the clients to request streams, of which, are located on controller devices. The rejection clearly shows the server performing all of the functions of the claimed "floor controller", which includes selecting a component to control a data source, then receiving a command from the component, then translating the command into a session command that the data source understands. The server in Karpoff clearly disclosed this by authenticating clients, allowing them to request data streams, in which the data stream request is converted by the server to an

RPC request for the data stream or other format as described in the rejection, and sent to the appropriate controller that provides the stream. As also can be seen, Karpoff did in fact disclose that the server belongs to a group of network components that are configured to receive a data stream as the server, as shown in Figures 9 and 10, which include an Internet cloud with multiple client devices.

It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J Bret Dennison/
Primary Examiner, Art Unit 2443